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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/672,829	09/29/2000	Cathal McGloin	P65973US0	2975

136            7590            02/13/2003  
JACOBSON HOLMAN PLLC  
400 SEVENTH STREET N.W.  
SUITE 600  
WASHINGTON, DC 20004

EXAMINER	
KAPADIA, MILAN S	
ART UNIT	PAPER NUMBER

3626

DATE MAILED: 02/13/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/672,829	MCGLOIN ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Milan S Kapadia	3626	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 29 September 2000.
- 2a) This action is FINAL.                  2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-15 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

- 11) The proposed drawing correction filed on \_\_\_\_\_ is: a) approved b) disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) The oath or declaration is objected to by the Examiner.

#### Priority under 35 U.S.C. §§ 119 and 120

- 13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some \* c) None of:
1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) The translation of the foreign language provisional application has been received.
- 15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                  | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____  |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                         | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) <u>4</u> . | 6) <input type="checkbox"/> Other: _____                                    |

**DETAILED ACTION**

**Notice to Applicant**

1. This communication is in response to the application filed 29 September 2000. Claims 1-15 are pending.

***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) do not apply to the examination of this application as the application being examined was not (1) filed on or after November 29, 2000, or (2) voluntarily published under 35 U.S.C. 122(b). Therefore, this application is examined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

3. Claims 1 and 4 are rejected under 35 U.S.C. 102(e) as being anticipated by Ibarra (6,119,097).

(A) As per claim 1, Ibarra teaches a performance management system for use in an

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organization having employees working to achieve organization performance goals, the system comprising:

configuration functions comprising:

an employee setup function comprising means for creating a database record for an employee (Ibarra; col. 6, lines 11-14 and col. 10, lines 41-49), and

an objective function comprising means for configuring objectives for employee performance (Ibarra; col. 2, lines 48-64) ,

an information management function comprising means for capturing raw data, and for processing the captured raw data according to an objective to generate employee performance data (Ibarra; col. 2, line 66-col. 3, line 7), and

a database comprising means for storing said performance data and for interfacing with the configuration and the information management functions (Ibarra; col. 4, lines 48-65).

(B) As per claim 4, Ibarra teaches wherein the configuration functions comprise an objective wizard function for configuring objectives for employee and team performance (Ibarra; col. 2, lines 48-64, col. 4, lines 30-39, and col. 10, lines 3-40)).

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ibarra (6,119,097) as applied to claim 1 above.

(A) As per claim 2, Ibarra fails to expressly teach wherein the configuration functions comprise an objective group function for creating an objective group of objectives to which similar weightings are applied and for associating an employee record with said objective group. However, since Ibarra teaches that each department (reads on "group") can be assigned their own objectives (Ibarra; col. 4, lines 30-38), it is respectfully submitted, that it would have been obvious, to one having ordinary skill in the art at the time the invention was made, to expand the configuration functions of Ibarra to create an objective group of objects to which similar weightings are applied and for associating an employee record with said objective group, with the motivation of enabling the assigning of objectives to the employee that are same as the department's objectives that the employee belongs to.

6. Claims 3, 5, and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ibarra (6,119,097) as applied to claims 1 and 2 in view of Powers et al. (5,500,795) and further in view of official notice.

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(A) As per claim 3, Ibarra fails to expressly teach wherein the configuration functions comprise a function for generating an appraisal ratings group of ratings defining how an employee is appraised with reference to objectives and means in the objective function for associating an objective with an appraisal rating group. However, this feature is old and well known in the art, as evidenced by Power's teachings with regards to a function for generating an appraisal ratings group of ratings defining how an employee is appraised with reference to objectives and associating an objective with an appraisal group (Powers; abstract, col. 16, line 15-col. 18, line 20, and col. 19, lines 33-48; the Examiner interprets the "management's view regarding the optimum values for each variable" as forms of "objectives.") It is respectfully submitted, that it would have been obvious, to one having ordinary skill in the art at the time the invention was made, to expand the system taught by Ibarra with Power's teaching with regards to this limitation, with the motivation of enabling the generation of performance data on an employee (Powers; col. 2, lines 30-50).

The combined system of Ibarra and Powers fail to expressly teach a data dictionary function comprising means for creating a data dictionary item defining how raw data imported into the system is processed and displayed and means in the objective function for associating an objective with a data dictionary item. However, the combined system of Ibarra and Powers clearly teach receiving and storing raw data in a database and processing the data and displaying the results (Ibarra; col. 6, lines 41-46, col. 8, lines 10-14) and also teach associating objectives with received data as shown above in the rejection of claim 1 and incorporated herein. The examiner takes official

notice that the use data dictionaries to index data stored in databases and specifying how the data is to be used is well-known computerized database arts (See Microsoft computer dictionary 5<sup>th</sup> edition, page 142, attached at the end of the office action). Thus, it is respectfully submitted, that it would have been obvious, to one having ordinary skill in the art at the time the invention was made, perform the functions of Ibarra and Powers in a fast and efficient manner, by making use of the well-known data dictionaries, with the motivation of increasing the performance of the software system.

(B) As per claim 5, the combined system of Ibarra and official notice collectively teach means for prompting input of objective description and appraisal definitions (Ibarra; col. 2, lines 45-65 and col. 5, lines 4-12) but the combined system of Ibarra and official notice collectively fail to expressly teach means for prompting a rating calculation. However, this feature is old and well known in the art, as evidenced by Power's teachings with regards to means for prompting a rating calculation (Powers; col. 16, lines 15-61) It is respectfully submitted, that it would have been obvious, to one having ordinary skill in the art at the time the invention was made, to expand the collective system taught by Ibarra and official notice with Power's teaching with regards to this limitation, with the motivation of enabling the generation of performance data on an employee (Powers; col. 2, lines 30-50).

(C) Claim 15 repeats the features of claims 1-3 and is therefore rejected for the same reasons given above in the rejections of claims 1-3 and incorporated herein.

7. Claims 6 and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ibarra (6,119,097) as applied to claim 1 above and further in view of Havens (5,909,669).

(A) As per claim 6, Ibarra fails to expressly teach wherein the configuration functions comprise a KPI wizard function comprising means for prompting user input of organization-level ratings and thresholds. However, this feature is old and well known in the art, as evidenced by Haven's teachings with regards to a KPI wizard function comprising means for prompting user input of organization-level ratings and thresholds (Havens; abstract and col. 6, lines 18-47; the Examiner interprets the "benchmark" data as a form of "organization-level ratings and thresholds.") It is respectfully submitted, that it would have been obvious, to one having ordinary skill in the art at the time the invention was made, to expand the system taught by Ibarra with Haven's teaching with regards to this limitation, with the motivation of providing data that can be used to qualitatively assess the employee (Havens; col. 2, lines 43-54).

(B) As per claim 7, Ibarra teaches a KPI group review configuration comprising means for grouping KPIs together for reporting purposes, and the information management functions comprise a KPI group review function comprising means for outputting group review data (Ibarra; col. 9, line 25-col. 10, line 2).

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8. Claims 8-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ibarra (6,119,097) as applied to claim 1 above and further in view of official notice.

(A) As per claims 8-14, Ibarra fails to express teach using a three-tier software architecture using object-oriented programming and proxy stub pairs which are used for remote procedure calls. However, Ibarra clearly teaches that the system is designed using software and can be used over a computer network Ibarra; col. 5, lines 58-62 and col. 10, line 66-col. 11, line 3). The examiner takes official notice that the use of a three-tier software architecture using object-oriented programming and proxy stub pairs in a system written by software and supporting network communications is well-known computer arts (See Microsoft computer dictionary 5<sup>th</sup> edition, pages 276 373, and 449, and 519, attached at the end of the office action). Thus, it is respectfully submitted, that it would have been obvious, to one having ordinary skill in the art at the time the invention was made, perform the functions of Ibarra using the well-known three-tier architecture and object-oriented programming techniques and proxy stub pairs , with the motivation increasing the flexibility of the software system.

### ***Conclusion***

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The cited but not applied art teaches a visual rating system and method (5,926,794); a project management system with automated schedule and cost

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integration (5,381,332); an intelligent system for dynamic resource management (6,275,812); and a signed group criteria (6,263,434).

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10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Milan S Kapadia whose telephone number is 703-305-3887. The examiner can normally be reached on Monday through Thursday, 8:30 A.M. to 6:00 P.M. In addition the examiner can be reached on alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph Thomas can be reached on 703-305-9588. The fax phone numbers for the organization where this application or proceeding is assigned are 703-305-7687 for regular communications and 703-305-7687 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1113.

  
DINH X. NGUYEN  
PRIMARY EXAMINER



February 7, 2003